

OSTER
Researching Services

12897 Colonial Dr. • Mt. Airy, Md 21771
301-253-6040

0-057A010

March 28, 1990

RECORDATION NO **16813** FILED 1425

MAR 28 1990 -10 40 AM

INTERSTATE COMMERCE COMMISSION

Ms. Mildred Lee
Recordations Unit
Interstate Commerce Commission
12th & Constitution Avenue, N.W.
Washington, D.C. 20423

Dear Ms. Lee:

Enclosed is an Interim Lease Agreement dated March 1, 1990,
between the following parties:

Lessor: Electro-Motive Division,
General Motors Coporation
LaGrange, IL 60525

Lessee: St. Louis Southwestern Railway Co.
San Francisco, CA 94105

The equipment involved in this transaction is as follows:

Equipment: 50, GP-60 3800 HP Locomotives
#9665-9714

Please file this document as a primary agreement. The filing
fee of \$15 is enclosed. Thank you for your kind assistance.

Sincerely,

Mary Ann Oster

Mary Ann Oster
Research Consultant

Enclosures

Covered by Mary Ann Oster

Interstate Commerce Commission
Washington, D.C. 20423

3/28/90

OFFICE OF THE SECRETARY

Mary A. Oster
Oster Researching Services
12897 Colonial Dr.
Mt Airy, Maryland 21771

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 3/28/90 at 10:40^{am} and assigned recordation number(s). 16813, 16814 & 16815

Sincerely yours,



Noreta R. McGee
Secretary

Enclosure(s)

16813
RECORDATION F3 FILED 1423
MAR 28 1990 -10 40 AM
INTERSTATE COMMERCE COMMISSION

INTERIM LEASE AGREEMENT

Dated as of March 1, 1990

Between

GENERAL MOTORS CORPORATION (ELECTRO-MOTIVE DIVISION),

and

ST. LOUIS SOUTHWESTERN RAILWAY COMPANY

covering

Fifty (50) GP60 3,800 Horsepower Locomotives

THIS AGREEMENT, dated as of March 1, 1990, between GENERAL MOTORS CORPORATION (ELECTRO-MOTIVE DIVISION), a Delaware corporation ("Lessor"), St. Louis Southwestern Railway Company, ("Lessee"), a Missouri corporation:

WITNESSETH:

WHEREAS, Lessor and Lessee entered into a Purchase Order dated March 1, 1990 ("Purchase Agreement") incorporated herein and hereby made part hereof, pursuant to which the Lessor has agreed to construct and sell to Lessee or to a third party designated by Lessee ("Purchaser") and Lessee has agreed to purchase or arrange for the purchase of fifty (50) GP60, 3,800 H.P. diesel electric locomotives, bearing road numbers 9665 through 9714, inclusive, ("Locomotives"); and

WHEREAS, Lessee desires to have temporary custody, possession and use of the Locomotives as soon as each is available for delivery, solely as a Lessee, and the Lessor is willing to grant such temporary custody, possession and use to Lessee;

NOW THEREFORE, in consideration of the premises, Lessor hereby delivers to Lessee and Lessee accepts from the Lessor the Locomotives as of the date each of them is delivered at Riverdale, Illinois until payment in full is effected pursuant to the Purchase Agreement for all of the Locomotives upon the terms and conditions detailed below.

1. Upon delivery to Lessee of each Locomotive in a condition satisfactory to Lessee, a Lessee representative shall execute a certificate of acceptance acknowledging the receipt thereof hereunder. Title to each Locomotive shall remain in the Lessor and Lessee's rights and interests therein are and shall be solely that of possession, custody and use as Lessee hereunder. Transfer of title to the Locomotives to Purchaser and the termination of this Agreement shall be effected only at the time of delivery of bills of sale for the Locomotives by Lessor to Purchaser, such bills of sale to be furnished upon at least ten (10) days prior written notice by Lessee to Lessor, but in any event prior to May 31, 1990. Lessee shall do such acts as may be reasonably requested by the Lessor, for the protection of the its title to and interest in the Locomotives during the term of the Agreement, including, but not limited to assisting Lessor in connection with any filing with the Interstate Commerce Commission.
2. Lessee shall pay or cause a designated third party to pay to the Lessor the purchase price of the Locomotives stated in the Purchase Agreement (the "Purchase Price") upon receipt of a bill of sale for each, pursuant to paragraph 1 hereof at which time this Agreement will terminate. Until bills of sale are furnished pursuant to Paragraph 1 hereof, Lessee shall pay interim per diem rent equal to the Purchase Price multiplied by the Prime Rate of Interest published in the Wall Street Journal (or the average of such rates, if more than one), for such day, divided by 365 for all applicable Locomotives. Such interim rent shall be assessed on each Locomotive for each day during the period beginning on the date a

certificate of acceptance is issued therefor until the date payment therefor is made inclusive. In no event, however, shall Lessee retain use of the Locomotives under this Agreement beyond May 31, 1990, unless the parties otherwise agree in writing.

3. Lessee agrees that it (a) will use and permit third parties to use the locomotives only in the continental United States, (b) shall permit no liens of any kind to attach to the Locomotives and (c) will indemnify and save harmless the Lessor from any and all claims, expenses or liabilities of whatsoever kind, including but not limited to any liability for personal injury or property damage and any and all taxes, fines, charges and penalties that may accrue or be assessed or imposed upon the Locomotives or the Lessor solely as a result of the Lessor's ownership or because of the use, operation, management or handling of the Locomotives by Lessee during the term of this Agreement. Notwithstanding the above, Lessee shall not be required to indemnify Lessor for any claims, expenses, or liabilities resulting from Lessor's negligence or willful acts. Lessee obligations contained in this paragraph shall survive the termination of this Agreement.
4. Lessee will, at its own expense, subject to Warranty Adjustments, keep and maintain the Locomotives in good order and running condition and shall, at its option, replace or repair any component or part of any Locomotive damaged or destroyed by any cause during the term hereof or

promptly pay to the Lessor the Purchase Price of any Locomotive which may in the opinion of Lessee be damaged beyond economic repair or destroyed by any cause during the term hereof.

5. In the event Lessee or a designated third party fails to pay the Purchase Price plus any interim rent due hereunder by May 31, 1990 then Lessor may, by its agents, enter upon the premises of Lessee and take possession of all or any such Locomotives as may be present and thenceforth hold and possess same free from any right of Lessee, or its successors or assigns, to use the Locomotives for any purposes whatsoever. Lessor may thereafter sell and deliver the Locomotives to others upon such terms as Lessor, at its sole discretion may determine it being understood and agreed that Lessee shall be liable to Lessor for the amount by which the price paid by such other parties is less than the sum of the Purchase Price, interim rent due hereunder and all reasonable expenses incident to such sale, including but not limited to the cost of obtaining the Locomotives, providing for their safekeeping, and selling them. Lessee shall pay all such amounts upon demand by Lessor.

6. Lessee represents and warrants that:

- a. The execution and delivery of this agreement is within its corporate authority, has been authorized by proper corporate proceedings and will not contravene any provision of its charter or by-laws;

- b. The rights of Lessor as herein set forth and the title of Lessor to the Locomotives are senior to the lien of any mortgage, security agreement or other instrument binding upon Lessee;
- c. Notices in connection with this Agreement shall be in writing and delivered either in person or by certified mail to the parties at the addresses listed below their signature to this Agreement. Such notices shall be effective upon receipt.

Send Notices To:

R. H. Berry - Room 1004
Chief Mechanical Officer
Southern Pacific Bldg.
One Market Plaza
San Francisco, CA 94105
(415) 541-1321

Send Notices To:

Keith McCanless
Manager of Leasing & Finance
Electro-Motive Division
LaGrange, Illinois 60525
(708) 387-6235

W. C. Hoenig - Room 977
Vice President - Purchasing
Southern Pacific Bldg.
One Market Plaza
San Francisco, CA 94105
(415) 541-1680

and

E. F. Grady - Room 666
Treasurer
Southern Pacific Bldg.
One Market Plaza
San Francisco, CA 94105
(415) 541-2052

THIS AGREEMENT shall be governed by and construed in accordance with the laws of the State of Illinois.

Attest:
By: *A. F. C. [Signature]* SECRETARY

Attest:

By: *[Signature]*
ASSISTANT SECRETARY

ST. LOUIS SOUTHWESTERN RAILWAY COMPANY

By: *[Signature]*
Vice President - Finance

GENERAL MOTORS CORPORATION
ELECTRO-MOTIVE DIVISION

By: *[Signature]*
Assistant Divisional
Comptroller

Approved as to Form
Gary A. Lark

State of California
County of San Francisco

) ss:

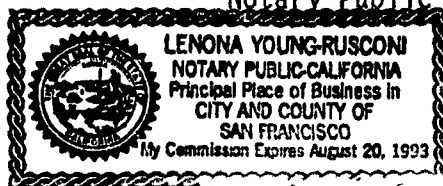
On this 1st day of March, 1990, before me personally
appeared E. L. JOHNSON, to me personally known, who, being by me
duly sworn, says that he is Vice President - Finance
of St. Louis Southwestern Railway
Company, that the foregoing instrument was executed on behalf of said
Corporation by authority of its Board of Directors, and he acknowledged that
the execution of the foregoing instrument was the free act and deed of said
Corporation.

(Notarial Seal)

Lenona Young-Rusconi

Notary Public

My Commission expires:



State of Illinois)
County of Cook) ss:

On this 1st day of March, 1990, before me personally
appeared P. M. Smith, to me personally known, who, being by me duly
sworn, says that he is Asst Comptroller of GENERAL MOTORS CORPORATION (ELECTRO-
MOTIVE DIVISION), that the foregoing instrument was executed on behalf of said
Corporation by authority of its Board of Directors, and he acknowledged that
the execution of the foregoing instrument was the free act and deed of said
Corporation.

(Notarial Seal)



Juanita Acantilado
Notary Public

My Commission expires: 4-17-92